

REMARKS

Reconsideration of the application is respectfully requested in view of the following remarks.

Applicants note that the change of address filed for Customer No. 00201 (which is the correspondence address for the present application) has not been given effect by the Office in the present application. The July 12, 2005 Office Action lists the old correspondence address. The correspondence address for Customer No. 00201, to which all correspondence in connection with this application should be sent, is

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The present invention is directed in claim 1 to a frozen product comprising a cartridge having a frozen aerated confection with an overrun of above 20% and below 100%, the frozen aerated confection comprising no more than 1.5% w/w glycerol, freezing point depressants in an amount above 25% w/w and under 37% w/w and between 0 and 15% w/w fat wherein the freezing point depressants have a number average molecular weight $\langle M \rangle_n$ of less than 275.

In response to the Office Action dated August 13, 2004, Applicants provided number average molecular weight values $\langle M \rangle_n$ for runs 89, 90, 93 and 85 of the cited Cole '824 patent. In the most recent Office Action of July 12, 2005, the Office has requested more convincing evidence to show how the number average molecular weights of the runs were arrived at. To assist the Office in its consideration of the application, Applicants enclose a declaration by inventor Loyd Wix. The Wix declaration sets forth

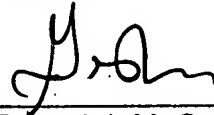
the calculations for the number average molecular weights of the freezing point depressants in the aforementioned runs from the Cole '824 patent. As can be seen, the number average molecular weight in the Wix runs are all well above 275. Therefore, it is respectfully requested that the Section 102 rejection be withdrawn.

With respect to the obviousness rejections, which additionally cite Cole, U.S. Patent No. 4,374,154 and DeVries, U.S. Patent No. 3,752,364, the Office again is unable to point to any teaching of the present invention defined by claim 1 wherein the freezing point depressants have a number average molecular weight of less than 275. Therefore, it is respectfully requested that the obviousness rejections be withdrawn.

Although it is not agreed that the obviousness-type double patenting rejection is appropriate, in order to expedite prosecution of this application, Applicants agree to file a terminal disclaimer over Serial No. 10/323,303 upon indication that the claims of the application are allowable.

In view of the foregoing, it is respectfully requested that the application be allowed.

Respectfully submitted,



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